



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

E.6
9-3-03

REPLY TO THE ATTENTION OF

C-14J

September 3, 2003

**Via Certified Mail
Return Receipt Requested**

Kurt A. Kissling
Miller, Johnson, Snell & Cummiskey, P.L.C.
Calder Plaza Building
250 Monroe Avenue NW, Suite 800
P.O. Box 306
Grand Rapids, MI 49501-0306

EPA Region 5 Records Ctr.



294755

Re: Benteler Automotive Response to CERCLA 104(e) Request

Dear Mr. Kissling:

I am responding to your letter of July 25, 2003 in which you request, on behalf of Benteler Automotive Corporation ("Benteler"), to be relieved of any obligation to respond to the CERCLA § 104(e) Information Request sent to Benteler on July 1, 2003. I understand that Benteler believes that the materials submitted in support of its successful motion for summary judgment in *Kalamazoo River Study Group v. Rockwell International et al.*, Civil Action No. 1:95CV838, clearly establish that it has no potential liability with respect to the Allied Paper/Portage Creek/Kalamazoo River Superfund site (the "Site").

I have carefully reviewed the summary judgment briefs and exhibits, as well as Judge Bell's opinion granting summary judgment to Benteler. Despite the favorable ruling, Benteler must answer the Information Request. Judge Bell's opinion focused primarily on the evidence of potential PCB releases during Benteler's period of ownership of the facility. *See, e.g.*, Opinion p. 10 ("... the evidence is uncontradicted that the ditch has not been a continuously running waterway since 1989"), Opinion p. 12 (no admissions regarding flow in drainage ditch "during Benteler's ownership of the property"); Opinion p. 12 (since Benteler's purchase of the facility, drainage ditch has contained physical barriers).

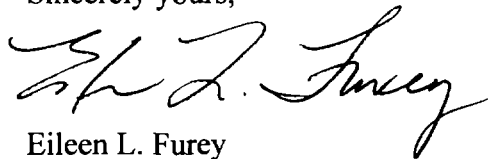
Pursuant to 42 U.S.C. § 9607(a), Benteler is potentially liable to the United States for the release of PCBs from the property prior to Benteler's ownership. The evidence submitted by the parties to the summary judgment motion certainly suggests that the Galesburg property currently owned by Benteler was a potential source, and possibly a significant source, of PCBs to Morrow

Lake and the Site.

In light of the previous litigation, it should not be unduly burdensome for Benteler to gather and provide responsive information. Benteler's response will be due thirty days from the date of your receipt of this letter. Finally, within the next few days, Region 5 intends to send 104(e) Information Requests to SPX Corporation (successor corporation to General Signal) and New York Air Brake Co. (predecessor to General Signal at the facility).

Thank you for very much for your cooperation. If you have any additional questions, please do not hesitate to call me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Eileen L. Furey". The signature is fluid and cursive, with the first name "Eileen" being more prominent.

Eileen L. Furey
Associate Regional Counsel

cc: R. Ford (DOJ)
S. Kolak (EPA)